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**HOUSE BILL 78**

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

**INTRODUCED BY**

**Mimi Stewart**

**AN ACT**

**RELATING TO GAME AND FISH; PROVIDING FOR THE ACQUISITION OF INTERESTS IN LAND AND WATER BY THE STATE GAME COMMISSION FOR HABITAT; IMPOSING A HABITAT ACQUISITION AND MANAGEMENT FEE; CREATING A FUND; MAKING AN APPROPRIATION.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. Section 17-1-14 NMSA 1978 (being Laws 1921, Chapter 35, Section 7, as amended) is amended to read:**

**"17-1-14. GENERAL POWERS AND DUTIES OF STATE GAME COMMISSION--GAME PROTECTION FUND. --**

**A. The state game commission shall have general control over the collection and disbursement of all money collected or received under the state laws for the protection and propagation of game and fish, which money shall be paid over to the state treasurer to the credit of the game**

underscored material = new  
[bracketed material] = delete

1 protection fund, unless otherwise provided by law, and the  
2 fund, including all earned income therefrom, shall not be  
3 transferred to another fund. Chapter 17 NMSA 1978 shall be  
4 guaranty to the person who pays for hunting and fishing  
5 licenses and permits that the money in that fund shall not be  
6 used for any purpose other than as provided in Chapter 17 NMSA  
7 1978.

8 B. The state game commission shall have authority  
9 to:

10 (1) establish and, through the director of the  
11 department of game and fish, to operate fish hatcheries for the  
12 purpose of stocking public waters of the state and to furnish  
13 fish fry and fingerlings to stock private waters, receipts from  
14 such sources to go into the game protection fund;

15 (2) declare closed seasons in any specified  
16 locality and on any species of game or fish threatened with  
17 undue depletion from any cause;

18 (3) establish game refuges for the purpose of  
19 providing safe sanctuaries in which game may breed and  
20 replenish adjacent hunting ranges, it being the purpose of this  
21 provision to establish small refuges rather than large  
22 preserves or to close large areas to hunting;

23 (4) purchase lands for game refuges where  
24 suitable public lands do not exist, to purchase lands for fish  
25 hatcheries and to purchase lands to be maintained perpetually

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[bracketed material] = delete

1 as public hunting grounds, particularly lands suitable for  
2 waterfowl hunting, all such lands to be paid for from the game  
3 protection fund;

4 (5) receive by gift or bequest, in the name  
5 and on behalf of the state, lands suitable for game refuges,  
6 hunting grounds, fish hatcheries or for any other purpose  
7 necessary to carry out the provisions of Chapter 17 NMSA 1978;

8 (6) apply for and accept any state, federal or  
9 private funds, grants or donations from any source for game and  
10 fish programs and projects;

11 (7) designate certain areas as rest grounds  
12 for migratory birds, in which hunting shall be forbidden at all  
13 times or at such times as the state game commission shall  
14 provide, it being the purpose of this provision not to  
15 interfere unduly with the hunting of waterfowl but to provide  
16 havens in which they can rest and feed without molestation;

17 (8) close any public stream or lake or portion  
18 thereof to fishing when such action is necessary to protect a  
19 recently stocked water, to protect spawning waters or to  
20 prevent undue depletion of the fish;

21 (9) propagate, capture, purchase, transport or  
22 sell any species of game or fish needed for restocking any  
23 lands or streams of the state;

24 (10) after reasonable notice and hearing,  
25 suspend or revoke any license or permit issued pursuant to the

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1 provisions of Chapter 17 NMSA 1978 and withhold license  
2 privileges for a definite period not to exceed three years from  
3 any person procuring a license through misrepresentation,  
4 violating any provisions of Chapter 17 NMSA 1978 or hunting  
5 without a proper license;

6 (11) adopt rules establishing procedures that  
7 provide reasonable notice and a hearing before the state game  
8 commission for the suspension, revocation or withholding of  
9 license privileges of a person charged with violating the  
10 provisions of Chapter 17 NMSA 1978, subject to such judicial  
11 review as may be provided by law;

12 (12) conduct studies of programs for the  
13 management of endangered and nongame species of wildlife;

14 (13) establish licenses, permits and  
15 certificates not otherwise provided for in Section 17-3-13 NMSA  
16 1978 and charge and collect just and reasonable fees for them;  
17 provided the fees shall not exceed the costs of administration  
18 associated with the licenses, permits or certificates;

19 (14) permit, regulate or prohibit the  
20 commercial taking or capturing of native, free-ranging  
21 amphibians or reptiles not specifically protected by law,  
22 except for rattlesnake roundups, collection of fish bait and  
23 lizard races;

24 (15) adopt rules to control, eradicate or  
25 prevent the spread of a contagious disease, pest or parasite,

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1 including chronic wasting disease, to or among game animals.

2 The rules shall include provisions for:

3 (a) notification to the department of  
4 game and fish of the diagnosis or suspected presence of a  
5 contagious disease;

6 (b) examination by the state  
7 veterinarian or his designee of suspected infected game  
8 animals;

9 (c) quarantine, treatment or destruction  
10 of an infected game animal;

11 (d) disinfection and isolation of a  
12 licensed private park where an infected game animal has been;  
13 and

14 (e) indemnification and destruction of a  
15 protected game animal; [~~and~~]

16 (16) as necessary, designate areas of the  
17 state in which bear-proof garbage containers are required on  
18 public and private lands to reduce potential human-bear  
19 interactions; and

20 (17) acquire, by purchase or lease, interests  
21 in land, water rights or water and, pursuant to appropriation  
22 by the legislature, expend money from the game protection fund  
23 and the habitat acquisition and management fund for the  
24 acquisitions and the improvement, maintenance, development and  
25 operation of the properties acquired.

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1 C. The director of the department of game and fish  
2 shall exercise all the powers and duties conferred upon the  
3 state game and fish warden by all previous statutes now in  
4 force not in conflict with Chapter 17 NMSA 1978.

5 D. The state game commission shall have authority  
6 to prohibit all hunting in periods of extreme forest fire  
7 danger, at such times and places as may be necessary to reduce  
8 the danger of destructive forest fires.

9 E. The hunting, pursuing, capturing, killing or  
10 wounding of any game animals, birds or fish in or upon any game  
11 refuge, rest ground or closed water or closed area or during  
12 any closed season established or proclaimed by the state game  
13 commission in accordance with the authority conferred in  
14 Chapter 17 NMSA 1978 constitutes a misdemeanor and shall be  
15 punishable as prescribed in Chapter 17 NMSA 1978. "

16 Section 2. A new section of Chapter 17, Article 4 NMSA  
17 1978 is enacted to read:

18 "[NEW MATERIAL] HABITAT ACQUISITION AND MANAGEMENT FEE--  
19 FUND-- EXPENDITURE FOR HABITAT. --

20 A. On and after April 1, 2006, a "habitat  
21 acquisition and management fee" of five dollars (\$5.00) is  
22 imposed upon the purchaser of each of the following licenses or  
23 permits; provided that only one fee shall be charged to an  
24 individual purchaser each license year regardless of the number  
25 of licenses or permits purchased by that purchaser:

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1 (1) a resident or nonresident license  
2 specified in Section 17-3-13 NMSA 1978; or

3 (2) a wildlife-associated recreation permit  
4 issued by the state game commission pursuant to Section 17-1-4  
5 NMSA 1978.

6 B. Habitat acquisition and management fees  
7 collected pursuant to Subsection A of this section shall be  
8 deposited in the "habitat acquisition and management fund"  
9 hereby created in the state treasury. The fund shall consist  
10 of money appropriated and transferred to the fund and habitat  
11 acquisition and management fees deposited in the fund.  
12 Earnings from investment of the fund shall be credited to the  
13 fund. Any unexpended or unencumbered balance remaining at the  
14 end of a fiscal year shall not revert. Disbursements from the  
15 fund shall be made upon warrants drawn by the secretary of  
16 finance and administration pursuant to vouchers signed by the  
17 director of the department of game and fish.

18 C. Upon appropriation by the legislature, money in  
19 the habitat acquisition and management fund may be expended by  
20 the state game commission only for the:

21 (1) acquisition, by purchase or lease, of  
22 interests in land, water rights and water to be used for game  
23 and fish habitat, wildlife-associated habitat and similar  
24 capital projects; or

25 (2) improvement, maintenance, development and

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1 operation of property acquired pursuant to Paragraph (1) of  
2 this subsection.

3 D. Land, water rights or water acquired under this  
4 section shall be acquired in the name of the state game  
5 commission. "

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